



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

# MICHIGAN LAW REVIEW

---

PUBLISHED MONTHLY DURING THE ACADEMIC YEAR, EXCLUSIVE OF OCTOBER, BY THE  
LAW SCHOOL OF THE UNIVERSITY OF MICHIGAN

---

SUBSCRIPTION PRICE \$2.50 PER YEAR.

35 CENTS PER NUMBER

---

RALPH W. AIGLER, EDITOR-IN-CHIEF

ASSOCIATE EDITORS

HENRY M. BATES

WILLARD T. BARBOUR

JOSEPH H. DRAKE

JOHN B. WAITE

---

STUDENTS, APPOINTED BY THE FACULTY

EDWIN DEWITT DICKINSON, of Michigan.

CHARLES L. GOLDSTEIN, of Michigan.

LEON L. GREENEBAUM, of Kansas.

LESTER S. HECHT, of Pennsylvania.

CHARLES L. KAUFMAN, of Ohio.

ABRAHAM J. LEVIN, of Michigan.

J. WIRTH SARGENT, of Kansas.

ARVID B. TANNER, of Minnesota

LESTER B. VINCENT, of Washington.

EARL L. WIENER, of Louisiana.

---

## NOTE AND COMMENT

---

JUDICIAL REFORM IN MICHIGAN.—The legislature which has been in regular session this year has enacted a measure enlarging the scope of judicial action in a way likely to add very greatly to the usefulness of the courts. This law authorizes courts of record to make binding declarations of the rights of parties prior to the commission of a wrongful act.

In the MICHIGAN LAW REVIEW for December, 1917, a presentation of this subject appeared in the form of an article by Edson R. Sunderland, of this Law School, on "A Modern Evolution in Remedial Rights,—The Declaratory Judgment." It evoked a wide interest, and the author was asked to discuss the subject further at the meeting of the Michigan State Bar Association held in Kalamazoo in June, 1918. After hearing the paper the Bar Association instructed its Committee on Legislation and Law Reform to prepare a bill for the next legislature authorizing declaratory judgments. The author of the paper, as a member of this committee, drew the bill which has just been enacted into law,—the first statute of the kind, so far as we are aware, in the United States.

The subject has been given additional publicity by the CENTRAL LAW JOURNAL which reprinted the paper read before the Michigan Bar Association. As a result of the agitation of the matter thus brought about, bills have been introduced in several states and are to be introduced in several more, providing for a similar extension of judicial power.

For the information of Michigan lawyers, and as a matter of interest to those in other states who are working upon bills of a similar nature, we give the text of the new Michigan law, which follows.

AN ACT to authorize courts of record to make binding declarations of rights.

The People of the State of Michigan enact:

SECTION 1. No action or proceeding in any court of record shall be open to objection on the ground that a merely declaratory judgment, decree or order is sought thereby, and the court may make binding declarations of rights whether any consequential relief is or could be claimed, or not, including the determination, at the instance of anyone claiming to be interested under a deed, will or other written instrument, of any question of construction arising under the instrument and a declaration of the rights of the parties interested.

SECTION 2. Declarations of rights and determinations of questions of construction, as herein provided for, may be obtained by means of ordinary proceedings at law or in equity, or by means of a petition on either the law or equity side of the court as the nature of the case may require, and where a declaration of rights is the only relief asked, the case may be noticed for early hearing as in the case of a motion.

SECTION 3. Where further relief based upon a declaration of rights shall become necessary or proper after such declaration has been made, application may be made by petition to any court having jurisdiction to grant such relief, for an order directed to any party or parties whose rights have been determined by such declaration, to show cause why such further relief should not be granted forthwith, upon such reasonable notice as shall be prescribed by the court in the said order.

SECTION 4. When a declaration of rights, or the granting of further relief based thereon, shall involve the determination of issues of fact triable by a jury, such issues may be submitted to a jury in the form of interrogatories, with such instructions by the court as may be proper, whether a general verdict be rendered or required or not, and such interrogatories and answers shall constitute a part of the record of the case.

SECTION 5. Unless the parties shall agree by stipulation as to the allowance thereof, costs in proceedings authorized by this act shall be allowed in accordance with such special rules as the Supreme Court may make, and in the absence of such rules the practice followed in ordinary cases at law or in equity shall be followed wherever applicable, and when not applicable the costs or such part thereof as to the court may seem just, in view of the particular circumstances of the case, may be awarded to either party.

SECTION 6. This Act is declared to be remedial, and is to be liberally construed and liberally administered with a view to making the courts more serviceable to the people.

---

SUBSEQUENT IMPOSSIBILITY AS AFFECTING CONTRACTUAL OBLIGATIONS.—  
“Where the law creates a duty or charge and the party is disabled to perform it without any default in him, and hath no remedy over, there the law will excuse him. \* \* \* But where the party by his own contract creates a duty